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Corps halts Elk Rapids dredging

-Corps permit specified where harbor fill should be placed, but village is placing it at condo site instead

By [KEITH MATHENY](#)
 Record-Eagle staff writer

ELK RAPIDS - The U.S. Army Corps of Engineers has temporarily halted at least part of an ongoing dredging project at the village's harbor.

The Army Corps is seeking to determine why the village is allowing the use of "spoils" from the dredging operation - clay, sediment and other materials removed from the harbor bottom - as fill at the Elk Rapids Preserve site condominium project on Fourth Street.

Village officials received permits for the harbor dredging from both the state Department of Environmental Quality and the Army Corps.

The Corps permit indicates that all of the expected 14,000 cubic yards of dredged spoil material be removed and placed at an upland site on the south side of Herrmann Road, across from the Elk Rapids Township wastewater treatment facility.

Village manager Robert Peterson said officials with the condominium project inquired about using the fill. DEQ officials in a Feb. 15 permit modification allowed the use of the dredged material as fill.

"We had approval from the DEQ, but the Army Corps of Engineers permit was not amended," Peterson said.

Peterson noted he was under the mistaken impression that the DEQ would contact the Army Corps regarding the change.

Lori Silagy district representative for the DEQ's Gaylord office, said the Corps received courtesy copies of the state's correspondence regarding the permit modifications. She said she also told the condominium

developer and the project's contractor that they should contact the Corps as well.

"I'm hoping to get out there this week, check out the harbor and make sure everything is up to snuff," Silagy said Monday.

Corps representatives also want to have a look. Mary Anderson, a project manager and biologist with the Corps of Engineers' Detroit office, said a group from the Corps is planning an on-site visit to Elk Rapids to determine what to do next.

"The main issue is, they provided us with where they were going to put the spoils and they are not putting them there," she said.

Anderson said noncompliance penalties can range from restoration measures up to fines.

"Our typical procedures involve talking with the applicant and coming up with an agreed resolution," she said. "If there are wetlands involved, that would obviously factor into any resolution."

The Corps of Engineers and DEQ apparently differ on whether the project involves wetlands.

In a 1997 response to an inquiry about whether wetlands permits were required for work on the condominium site, John Arevalo of the DEQ's Land and Water Management Division in Gaylord said they were not. He made the determination following an inspection of the site, according to the letter.

"Although there are wetlands within the plat, we could not determine that they are contiguous to an inland lake or stream, or Lake Michigan," Arevalo wrote.

But in a letter last week to county coordinator/planner Peter Garwood, Corps of Engineers biologist Suzanne Bright states there are wetlands at the property off Fourth Street.

"A representative of this office conducted an inspection of this property and discovered that this property contains wetlands within the regulatory jurisdiction of the Corps of Engineers," Bright states in her March 13 letter, responding to an inquiry from Garwood.

"Be advised that any discharge of fill and/or dredged material into the wetland will require prior authorization from this office," the letter further states.

Under the law giving authority for the Corps of Engineers to regulate a wetland, the agency apparently believes the wetland is contiguous to Lake

Michigan.

Silagy said she could not explain the divergent interpretations from the two agencies.

"It's just differing determinations," she said. "I'm not sure what (the Corps) saw that department staff didn't see."

Anderson said she was unsure when the Army Corps will tour the Elk Rapids project, how long its inquiry might take, or when a resolution to the issue may be forthcoming.

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